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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,514	11/17/2000	Darko Pervan	003300-700	5020

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT PAPER NUMBER

3637

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,514

Applicant(s)

PERVAN, DARKO

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12-14, 17. 6) ☐ Other: _____

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/02 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14, 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terbrack et al (4426820) in view of Baker (GB 2256023) and Brown et al (3347048).

Terbrack et al (figure 10) shows a locking system having a tongue and groove joint, the joint having upper(top part of the tongue which touches the top of the groove) and lower (the low part of the tongue which touches the bottom of the groove) abutment surfaces for vertical locking of two joint edges of two adjacent boards, the upper abutment surfaces extending in a first plane essentially parallel to a principal plane of the floor boards, the cooperating upper abutment surfaces being in contact with each other, the lower abutment surfaces being in a second plane essentially parallel to the principal plane of the floorboards, a mechanical locking system having a locking groove(28) formed in the underside(3) of a first one of the joint edges and extended in parallel therewith, a portion (29) projecting from the second joint edge (28, right side) and

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integrated with a body of the floorboard, said portion supporting at a distance from the joint edge a locking element (the upright tip of the portion 29) cooperating with the locking groove, the tongue (27) being anglable into the groove and the locking element being insertable into the locking groove, the cooperating upper abutment surfaces being limited horizontally inward and horizontally outward by an inner vertical plane (the inner edge of the groove) and an outer vertical plane(the outer edge of the groove), the projecting portion and the groove being arranged in one and the same joint edge of the boards, the locking element of the projection portion being positioned on a level with the lower abutment surface of the groove, the projecting portion having a lower portion between the locking element and the tongue and groove joint being positioned below said lower abutment surfaces, the uppermost surface of the locking element being below the first plane.

Terbrack et al does not show a space below the tongue which extends horizontally from the inner vertical plane and essentially all the way from the inner vertical plane to the outer vertical plane, the lower abutment surfaces being positioned essentially outside the outer vertical plane, no part of the lower abutment surfaces being positioned inside the outer vertical plane, a horizontal play between the bottom of the groove and the tip of the tongue, a space below the tongue when the boards are joined.

Baker (figure 4) shows a space below the tongue(the space below the tongue at 6), which extends horizontally from the inner vertical plane (the vertical line at the end of the tongue) to the outer vertical plane (its taper end).

Terbrack et al (figure 18) discloses an embodiment with a major part of the lower abutment surfaces (58) being at least partially outside a vertical joint plane(57) and outside the

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outer vertical plane (at intersection of 58 and 54), inner vertical plane (intersection point of 57 and 58).

Brown et al shows a space (38) below the tongue (22) when the boards are joined.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Terbrack et al to show a space below the tongue which extends horizontally from the inner vertical plane and essentially all the way from the inner vertical plane to the outer vertical plane, the lower abutment surfaces being positioned essentially outside the outer vertical plane, no part of the lower abutment surfaces being positioned inside the outer vertical plane, a horizontal play between the bottom of the groove and the tip of the tongue, a space below the tongue when the boards are joined because it would allow for easy insertion of the tongue into the groove while still providing vertical hold-down for the boards.

Per claim 5, Terbrack et al as modified shows all the claimed limitations.

Per claims 9-12, Terbrack et al as modified also shows the locking element being a different material than the body and separate from the body. Terbrack et al as modified does not show the projecting portion being at least partially made in one piece with a body of the floorboard.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Terbrack et al's modified structure to show the projecting portion being at least partially made in one piece with a body of the floorboard because it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

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Per claims 13, 21 and 22, Terbrack et al as modified shows all the claimed limitations except for the projecting portion/strip being resilient transversely of the principal plane of the floorboards.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Terbrack et al's modified structure to show the projecting portion being resilient transversely of the principal plane of the floorboards because having the portion resilient would enable tight clamping of the boards together.

Per claims 17-20, and 23-24, Terbrack et al as modified inherently shows all the claimed limitations.

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terbrack et al in view of Brown et al and Baker as applied to claim 14 above, and further in view of Applicant figure 1C.

Terbrack et al as modified shows all the claimed limitations except for the groove having in its upper part a beveled portion.

Applicant figure 1C shows the groove having in its upper part a beveled portion to enable easy insertion of the tongue into the groove.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Terbrack et al's modified structure to show the groove having in its upper part a beveled portion to enable easy insertion of the tongue into the groove because it would enable easy insertion of the tongue into the groove as taught by Applicant figure 1C.

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection..

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different tongue and groove panel designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A

PA

2/8/03

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